

EXHIBIT 44

Oct. 18, 2021
Email from R.
Farrell to D.
Fenton

(Depo. Ex. 24)

R. Farrell

5/18/2023

Reporter: Sharon Saalfeld
RDR, CRR**From:** "Farrell, Richard" <Richard.J.Farrell@doe.nh.gov>**To:** "Fenton, Diana" <Diana.E.Fenton@doe.nh.gov>**Subject:** RE: Code of Ethics training**Date:** Mon, 18 Oct 2021 16:26:56 -0000**Importance:** Normal**Attachments:** continued_excellence--HB2.pptx; Ed_511.pdf;
Crimes_Which_Bar_Employment_in_Education.pdf; AG_guidance_HB_2.pdf

Good Morning,

I have been asked to schedule this training and, perhaps, do the presentation. Please find attached documents for dissemination to your staff. Is it possible to provide a laptop and power point for use? We would prefer a start time of 1030. That will give us approximately 60 minutes for the presentation and room for questions.

Will that work for you? Thank you for giving us the opportunity to meet your staff.

Respectfully,

Rich Farrell

Richard J. Farrell Jr.
New Hampshire Department of Education
Investigations
101 Pleasant Street
Concord, New Hampshire 03301
(603) 271-8372

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From: Fenton, Diana <Diana.E.Fenton@doe.nh.gov>**Sent:** Monday, October 18, 2021 12:10 PM**To:** Farrell, Richard <Richard.J.Farrell@doe.nh.gov>**Subject:** FW: Code of Ethics training

Pls see if you can cover this

From: Judy Tilton <jtilton.cca@gmail.com>**Sent:** Monday, October 18, 2021 11:12 AM**To:** Fenton, Diana <Diana.Fenton@doe.nh.gov>**Subject:** Code of Ethics training

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good Morning,

I was wondering if you could give a COE training to our staff on their next PD day, 11/3/2021?

We can do it at whatever time is convenient for you.

Thank you in advance,

Judy Tilton

Compass Classical Academy

603-455-3455



Frequently Asked Questions: New discriminatory practice prohibitions applicable to k-12 educational programs¹

Issued by: Department of Education, Commission for Human Rights and Department of Justice

House Bill 2 was passed by both bodies of the legislature and signed into law by the Governor on June 25, 2021. Included in HB 2 are sections 297 and 298, Right to Freedom from Discrimination in Public Workplaces and Education.

There has been much discussion about this law and what prohibitions it imposes on public employers, government programs, and schools. The State of New Hampshire and its political subdivisions recognize that they have a duty to ensure that they treat all residents and visitors equally. This means that all employees or individuals who work to provide or administer programs and services on behalf of the State of New Hampshire, including teachers in an educational setting, must continually strive to treat all of those with whom they may come into contact equally and with dignity and respect.

The purpose of these FAQs is to provide guidance to public employers, government program administrators, and school systems as they review their compliance with this new law.

This FAQ document addresses questions that may arise regarding the changes to schools and educational programs contained in RSA chapter 193. Please see separate document that addresses changes to the New Hampshire Law Against Discrimination, RSA chapter 354-A.

Changes Regarding Schools and Educational Programming

1. What are schools prohibited from teaching students?

Schools are prohibited from teaching that one identified group (a group based upon: age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion or national origin) is:

- Inherently superior or inferior to people of another identified group;
- Inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- Should be discriminated against or receive adverse treatment; or
- Should not treat members of other identified groups equally.

In short, do not teach that a person or a group is inherently oppressive, superior, inferior, racist, or sexist. Teach and treat all equally and without discrimination.

2. What do the phrases “inherently superior or inferior” or “inherently racist, sexist, or oppressive” mean?

“Inherent” means characteristics that are natural, biological, or innate, as opposed to characteristics that are merely apparent, accidental, or based on external factors.

¹ House Bill 2, Sections 297 and 298, Right to Freedom from Discrimination in Public Workplaces and Education;
Legal Reference: RSA 354-A:29; RSA 354-A:30; RSA 354-A:31; RSA 354-A:32; RSA 354-A:33; RSA 354-A:34; RSA 193:40.

This new law makes it illegal to teach, train or advocate that a person, because of their membership in one or more identified group(s), is inherently either: (1) racist, sexist, or oppressive, consciously or unconsciously or (2) superior or inferior to people of another identified group.

3. Does the law prohibit teachers from teaching U.S. history?

No. Nothing prohibits the teaching of historical subjects including, but not limited to: slavery, treatment of the Native American population, Jim Crow laws, segregation, treatment of women, treatment of LGBTQ+ people, treatment of people with disabilities, treatment of people based on their religion, or the Civil Rights movement. Nor does anything prohibit discussions related to current events including, but not limited to: the Black Lives Matter movement, efforts to promote equality and inclusion, or other contemporary events that impact certain identified groups.

4. Are schools allowed to teach students historical concepts related to discrimination?

Yes. Schools are allowed to discuss "as part of a larger course of academic instruction, the historical existence of ideas and subjected identified" in the new law. Nothing prohibits schools from teaching about discrimination, including the historical existence of these ideas.

5. A parent or student has complained that certain lessons, subjects, or areas of discussion related to racism have made them uncomfortable. Has the school district violated the Prohibition on Teaching Discrimination?

No. It is important to note that education related to racism, sexism, and other practices or beliefs that have harmed or continue to harm certain identified groups may make students, faculty, or parents uncomfortable. These lessons may encourage or prompt students to reflect upon whether and how racism, sexism, or other practices have or have not affected their lives. Even discussion of historical practices and their lingering impact upon different identified groups can cause this discomfort.

The mere fact that a lesson may make students, faculty or parents uncomfortable does not mean that the school has violated the Prohibition on Teaching Discrimination.

6. Can parents or guardians refuse to allow their children to participate in specific course material?

Yes. Where parents or guardians object to specific course materials, they are encouraged to follow school policies related to RSA 186:11, IX-c dealing with objectionable education material.

7. Does the law apply to public schools?

Yes. All K-12 public schools are subject to this law. This includes charter schools and public academies.

8. Does this law apply to all school activities or just teaching?

The prohibitions apply to all activities carried out by public schools in their role as public schools, including extra-curricular activities that are part of the public school's work.

The law does not apply to all activities that may occur on a public school's property and does not prohibit public schools or school districts from making physical space available to third parties for events or activities, i.e. a voluntary after-school program but is administered by a third-party organization.

9. **Does this law apply to instruction in colleges, universities, or other post-secondary educational institutions?**

No for teaching students, yes for staff and volunteer training.

The prohibitions detailed above apply only to instruction of students in K-12 programs. However, this law does apply to trainings for staff and volunteers at colleges, universities, or other post-secondary educational institutions, because these institutions are considered public employers and/or government programs. For questions regarding restrictions on training staff and volunteers by public employers and government programs, find more information [here](#).

10. **Does this law apply to trainings for post-secondary school employees or volunteers?**

Yes. For questions regarding restrictions on training staff and volunteers in all educational programs, find more information [here](#).

11. **What remedies are available to students or parents who believe that a school has violated the Prohibition on Teaching Discrimination?**

A student or parent who believes that they have been subject to discrimination may file a complaint with the New Hampshire Commission for Human Rights; a complaint with the New Hampshire Office of the Attorney General; or may file a civil claim in superior court to seek damages or declaratory or injunctive relief.

12. **Can an educator's credential be disciplined for teaching these prohibited subjects?**

Yes. If an educator is found to have discriminated against an individual or identified group, it is a violation of the educator code of conduct and may result in disciplinary sanction by the state board of education.

13. **Can a student or parent file a claim based upon instruction or other conduct that occurred in 2020?**

No. Complaints alleging a violation of the new law may only be considered for conduct that occurred after the enactment of that law on June 25, 2021.

New Hampshire



Department of Education

CONTINUED EXCELLENCE
ELEVATING AN ESTEEMED PROFESSION

Diana E. Fenton, Esq., Chief, Governance Unit
Richard Farrell, Investigator

“An ethics code reflects a collective decision that a profession is better off when ethical standards are not based solely on individual assessments of what is or is not acceptable.”

Fisher. C. (2013). *Decoding the Ethics Code: A practical guide for psychologists* (3rd edition).

**Code of Conduct is Not Punishment—
It is about Process!!**

A BRIEF HISTORY OF CREATING THE CODE OF ETHICS & CODE OF CONDUCT

June 2015—PSB began to look into a code of ethics;

August 2016—Commissioner Barry created Ethics Task Force;

Sept-Dec 2016—Task Force begins work on Code of Ethics;

April 2017—HB 210 signed into law;

Sept-Dec 2017—Task Force transitions focus to Code of Conduct;

Summer of 2018—State Board accepts Code of Ethics;

November 2018—State Board adopts Code of Conduct



STAKEHOLDERS



A House of Professionals

NEA New Hampshire



New Hampshire
Council for Teacher Education

IHE NETWORK
A CONSENSUS OF NH EDUCATION
PREPARATION PROGRAMS



NHSAA
New Hampshire School Administrators' Association



New Hampshire
Department of Education



New Hampshire
Professional Standards Board



New Hampshire
Department of Education

STATUTE

TITLE I STATE AND ITS GOVERNMENT

CHAPTER 31-N DEPARTMENT OF EDUCATION

Section 11-N:9

11-N:9. The establishment and enforcement of a code of ethics for certified educational personnel, which shall be adopted no later than July 1, 2018. This professional code shall include a statement of purpose and standards defining each of the 4 primary principles which are:

- (A) Responsibility to the education profession and educational professionals.
- (B) Responsibility to students.
- (C) Responsibility to the school community.
- (D) Responsibility and ethical use of technology as it relates to students, schools, and other educational professionals.

(2) The professional code of ethics shall apply to all teachers, supervisors, administrators, and other personnel licensed or seeking licensure in the education profession in the state of New Hampshire. In this subparagraph, "teacher" means a person who has applied for or holds a valid teaching license, credential, or other equivalent certificate issued by the state board of education.

RSA 21-N:9, II(CC)

New Hampshire
Department of Education

RULES

PART Ed 510 CODE OF CONDUCT

- Section Ed 510.01 Principle 1 - Responsibility to the Education Profession and Educational Institutions
- Section Ed 510.02 Principle 2 - Responsibility to Students
- Section Ed 510.03 Principle 3 - Responsibility to the School Community
- Section Ed 510.04 Principle 4 - Responsible and Ethical Use of Technology
- Section Ed 510.05 Duty to Report

PART Ed 512 DENIAL OR CERTIFICATION

- Section Ed 512.01 Denial, Investigations and Disciplinary Proceedings
- Section Ed 512.02 Reprimand, Suspension or Revocation
- Section Ed 512.03 Disciplinary Hearings
- Section Ed 512.04 Status of a Conditional Pending Completion of Disciplinary Proceedings
- Section Ed 512.05 Records for Reinstatement After Suspension

PART Ed 514 MASTER PLAN AND RE-CERTIFICATION

- Section Ed 514.01 Local Professional Development Master Plan
- Section Ed 514.02 Under the Professional Development Master Plan
- Section Ed 514.03 Under the Local Professional Development Master Plan

PART Ed 514.01 MASTER PLAN AND RE-CERTIFICATION

- Section Ed 514.01 Master Plan and Re-Certification
- Section Ed 514.02 Highly Qualified Teacher

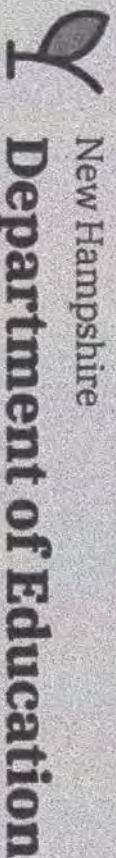
PART Ed 514.02 APPROVAL OF PROFESSIONAL PREPARATION PROGRAMS

- Section Ed 514.02 Definitions

PART Ed 514.03 PROCEDURE FOR APPROVAL

- Section Ed 514.03 Scope of Approval Process
- Section Ed 514.03 Evaluation Requirements
- Section Ed 514.03 Demonstration Components
- Section Ed 514.03 Approval Requirements
- Section Ed 514.03 Application Fee for Program Approval
- Section Ed 514.03 Other

Approved Recommendation



THE DIFFERENCE



Code of Conduct
*NH's Principles of Professional
Conduct*



Code of Ethics
*The Code of Ethics
for New Hampshire
Educators*



New Hampshire

Department of Education

ARE YOU TALKING TO ME?

Who is the document applicable to??

Code of Ethics—Applicable to all educators and all school personnel

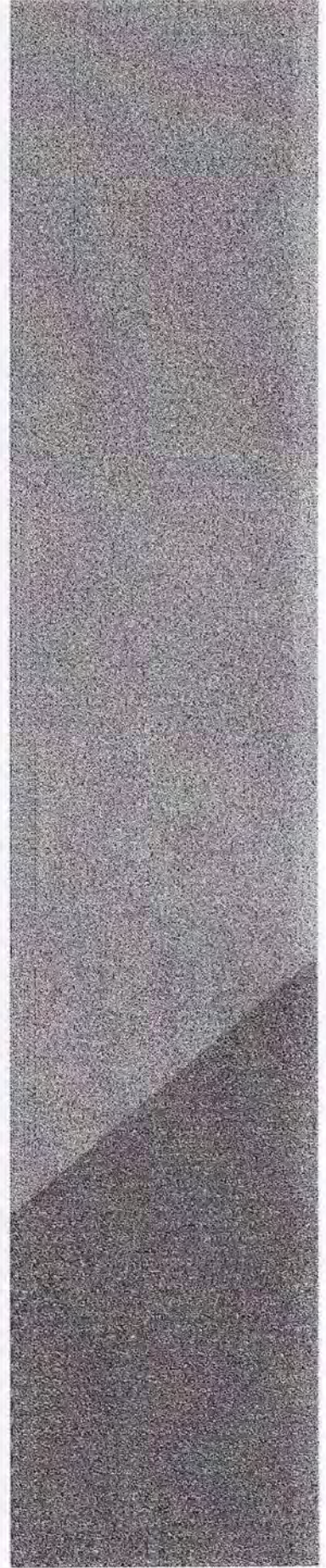
Code of Conduct—Applicable to all credential holders

“Credential” is defined in Ed 501.02(g)—page 9 of the Code of Ethics & Conduct booklet!



WHY IS A CODE OF CONDUCT IMPORTANT?

- **Child Safety should not be determined by zip code!!**
- Teachers are asked to play an increasingly expansive role in students' lives without any discussion of the inherent risks of this.
- All professions that are characterized by intimate relationships rely on professional standards and norms that help them recognize and respond appropriately when navigating interactions.

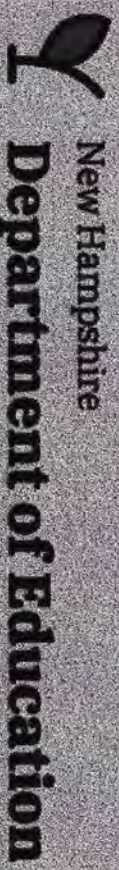


CODE OF CONDUCT VS. CODE OF ETHICS

Code of Ethics is guidance—aspirational in nature—articulates responsibilities common to all members of the education profession.

Code of Conduct establishes the lowest standard of care—it is actionable only against credential holders

Applicable on or off duty!



CODE OF ETHICS & CONDUCT

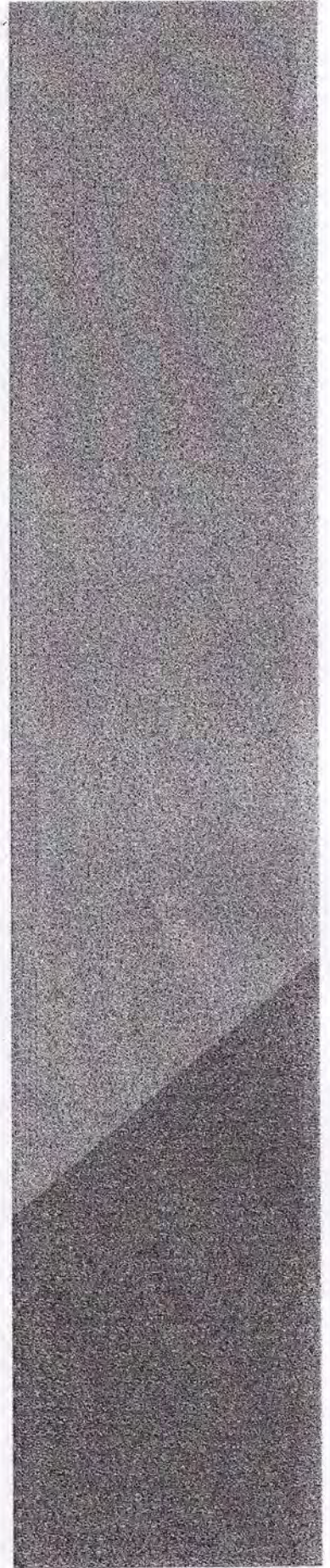
Difference in language:

Code of ethics:

When communicating with students, utilizes social media responsibly, transparently and primarily for the purposes of teaching and learning

Code of Conduct:

An educator shall not engage in harassment, stalking, or bullying via electronic media.

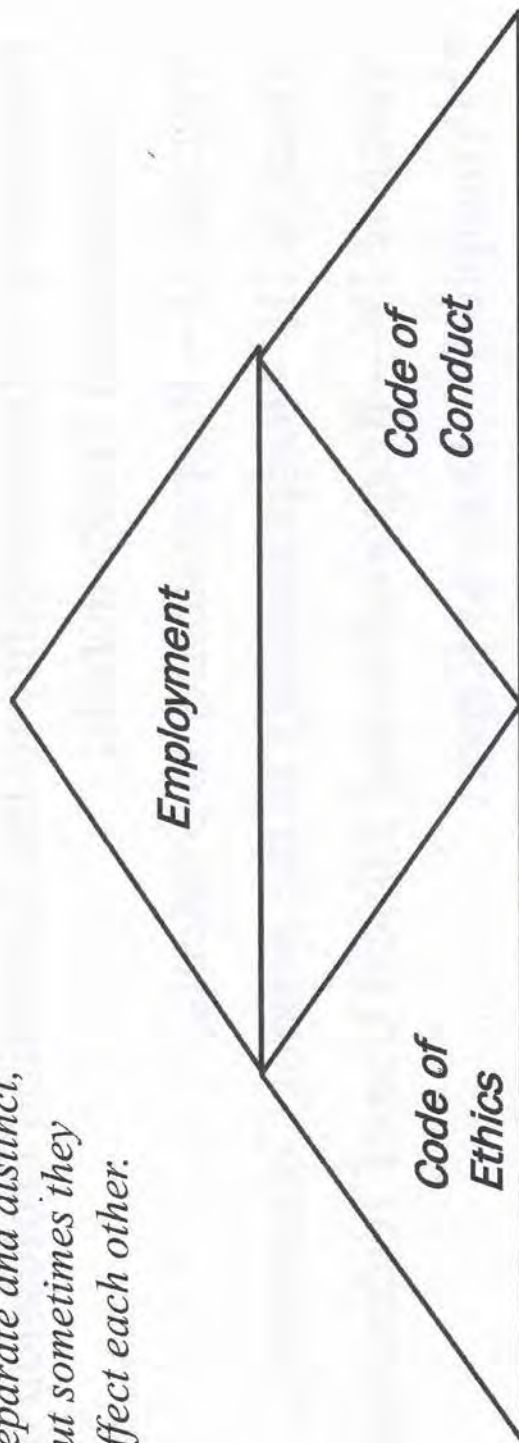


EMPLOYMENT VS. LICENSURE

- Licenses are required in professions that require public trust;
- Employment and licensure are separate concepts;
- The Department's role is *broader in jurisdiction*, but *narrower in scope*.

The Analysis.....

*Separate and distinct,
but sometimes they
affect each other.*



CODE OF ETHICS & CONDUCT

Four Principles:

Principle I—Responsibility to the Education Profession and Educational Professionals;

Principle II—Responsibility to Students;

Principle III—Responsibility to the School Community;

Principle IV—Responsible and Ethical Use of Technology

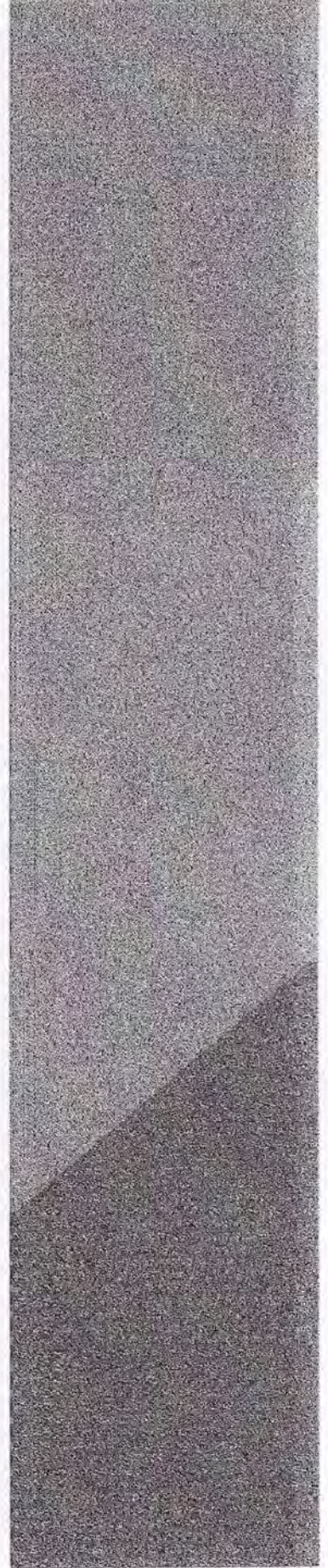
****Principle V—Duty to Report**



CODE OF CONDUCT—PRINCIPLE 1 (ED 510.01)

Responsibility to the Education Profession & Educational Professionals:

- Failure to report if arrested for RSA 189:13-a, V offense;
- Falsifying professional qualifications;
- Unlawful possession of drug;
- Possessing or being under influence of drugs or alcohol on school premises or school sponsored activity where students are present.



CODE OF CONDUCT—PRINCIPLE II (ED 510.02)

Responsibility to Students:

- Failure to provide appropriate supervision of students pursuant to local policy;
 - Furnishing alcohol or illegal drugs to students;
 - Engaging in sexual activity with student;
 - Soliciting participation in sexual relationship
- *“Student” is defined as being up to 10 months after graduation



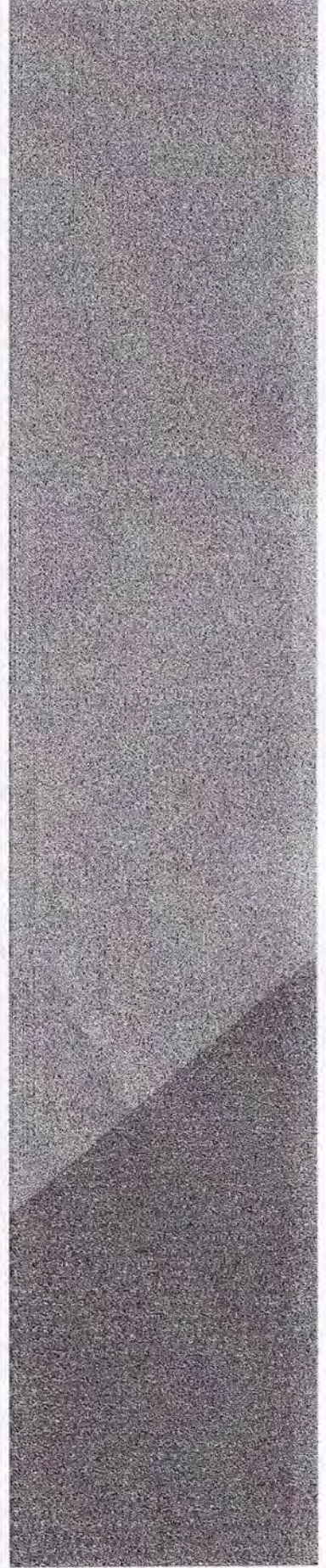
CODE OF CONDUCT—PRINCIPLE III (ED 510.03)

Responsibility to the School Community:

- Accepting gifts or favors where there might be an actual or appearance of a conflict of interest

****Gifts of small amount shall NOT be deemed conflict of interest.**

- Misuse of funds for use by the school
- Intentional altering or misrepresenting student assessments, results or official school records.



SO WAIT JUST A MINUTE.....

What if a parent gives me a bottle of wine as a present?

Am I going to lose my license for that??

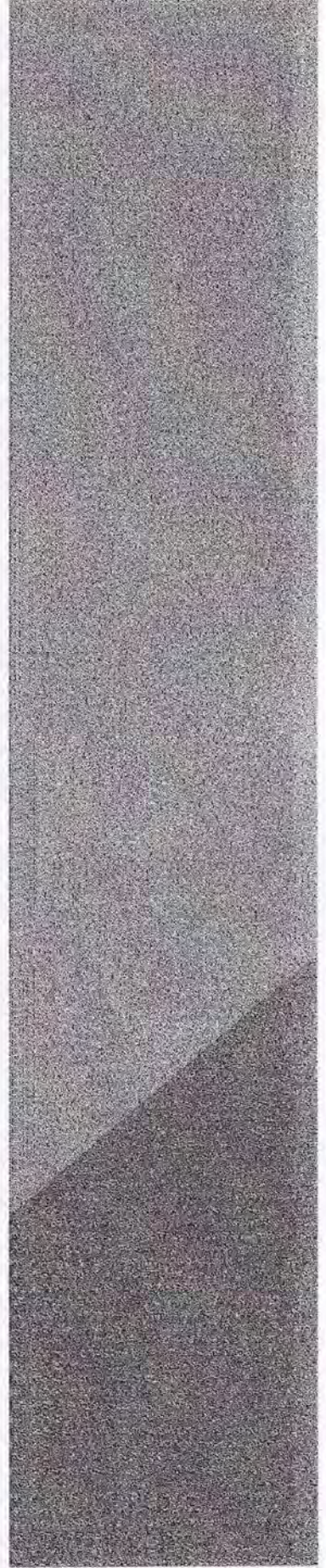


CODE OF CONDUCT—PRINCIPLE IV (ED 510.04)

Responsible & Ethical Use of Technology:

- Soliciting a sexual relationship with a student
- Engaging in inappropriate communication—intent, timing, subject matter and amount of communication and whether communication could reasonably be interpreted as being sexual in nature.

* “Student” is defined as being up to 10 months after graduation



I NEED SOME EXAMPLES OF WHAT YOU ARE SAYING

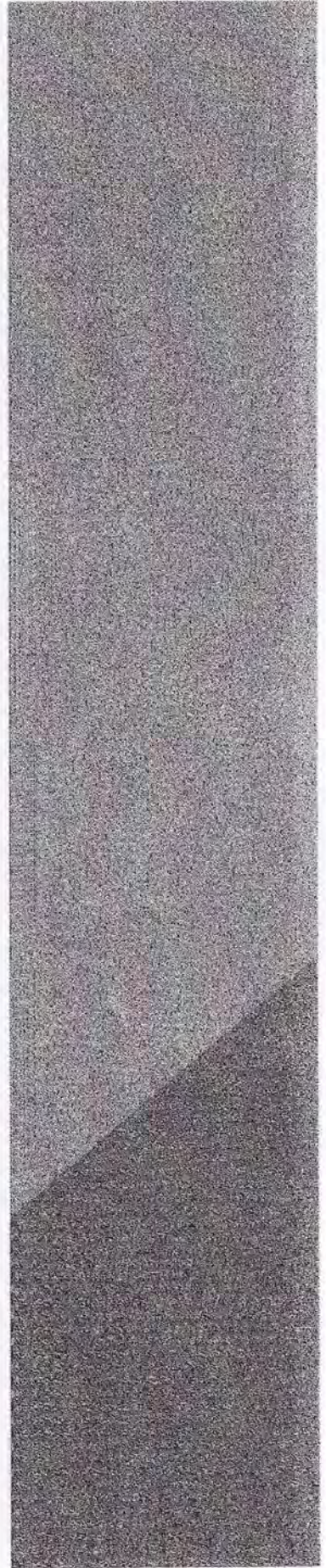
- “YOU were one of my rare accomplishments”
- “I saw special in you from the beginning”
- “I felt compelled to both nurture and provocatively challenge [your thoughts]”



CODE OF CONDUCT—PRINCIPLE V (ED 510.05)

Duty to Report:

- Any credential holder shall report any suspected violation of the code of conduct
- Superintendent shall report to office of credentialing when a credential holder has been arrested for RSA 189:13-a and violated code of conduct
- Credential holders shall report abuse or neglect



PROHIBITION ON TEACHING DISCRIMINATION

- Section 297 & 298 of HB 2 was passed during the 2021 Legislative Session

I. No pupil in any public school in this state shall be taught, instructed, inculcated or compelled to express belief in, or support for, any one or more of the following:

(a) That one's age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion or national origin is inherently superior

to people of another age, sex, gender identity, sexual orientation, race, creed, color, marital status,

familial status, mental or physical disability, religion, or national origin;

(b) That an individual, by virtue of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion,

or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

PROHIBITION ON TEACHING DISCRIMINATION

- (c) That an individual should be discriminated against or receive adverse treatment solely or partly because of his or her age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin; or
- (d) That people of one age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin cannot and should not attempt to treat others without regard to age, sex, gender identity, sexual orientation, race, creed, color, marital status, familial status, mental or physical disability, religion, or national origin.

II. Nothing in this section shall be construed to prohibit discussing, as part of a larger course of academic instruction, the historical existence of ideas and subjects identified in this section.

PROHIBITION ON TEACHING DISCRIMINATION

- All suspected violations of this new law are to be reported to the Human Rights Commission
- The Human Rights Commission will adjudicate these cases
- A finding of a violation of this law by the Human Rights Commission shall be a violation of the Code of Conduct for educators.

****Please see Technical Advisory by the NH Attorney General's Office on this law for more guidance.*

INVESTIGATIONS—ED 511.01

- Initial review
- Credential holder is notified if placed under investigation
- Superintendent is notified if credential holder is placed under investigation



INVESTIGATIONS—ED 511.01

This letter serves as the official notification, pursuant to New Hampshire Administrative Rule Ed. 511.01, that the New Hampshire Department of Education has initiated an investigation into a complaint against you which alleges that you engaged in an act or acts which violate the New Hampshire Code of Conduct for Educational Professional as enumerated in Ed. 510.01-510.04.

Specifically, the Department of Education has become aware of an action(s) which may have violated Ed ----- of the Code of Conduct for Educational Professionals. Specifically, the allegation is that you -----
----- At this time, no action has been taken against your teaching credential. Therefore, your teaching credential is still valid during this pending investigation. A copy of this letter will be provided to the superintendent of SAU ----- and the Union.

SANCTIONS—ED 511.02

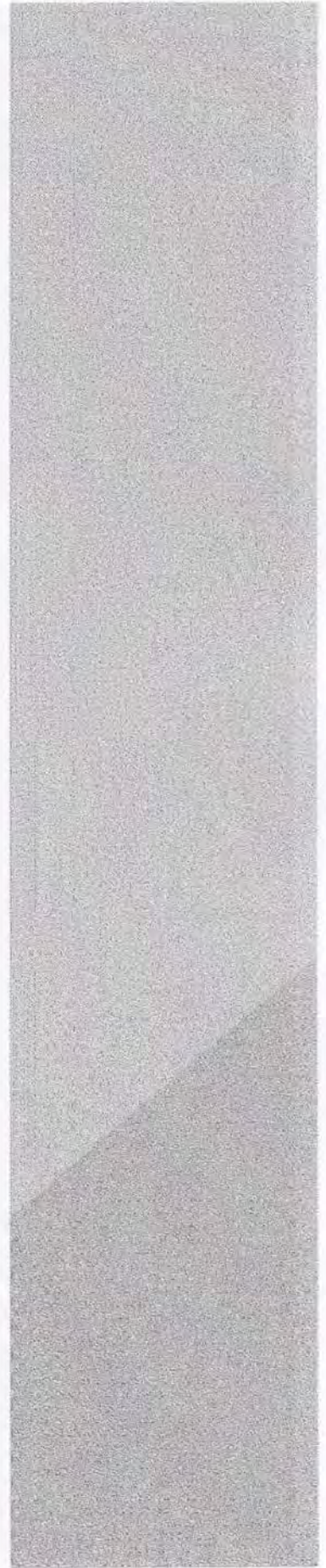
Four options---3 forms of sanction:

Close out case—Allegation unfounded—no action taken

Suspension—rescinded for set period of time

Revocation—permanently rescinded

Reprimand—note to file of credential holder



INVESTIGATIONS—ED 511.01

Considerations of sanctions:

- Seriousness of offense;
- Prior disciplinary record
- Potential harm to students
- Purpose of the rule violated



REPRIMAND, SUSPENSION OR REVOCATION

Ed 511.02

- All discipline is documented in writing
- Signed by all parties
- Maintained in electronic credentialing file

Ed 502.01

List of suspended and revoked educators is maintained and is on DOE website

Ed 511.05

Grounds for Reinstatement after Suspension



THE STATE OF NEW HAMPSHIRE

In re: NAME

Credential Suspension Agreement

In Consideration For the Suspension of Educator Credential Between:

NAME (EdId: XXXX)

and

The New Hampshire Department of Education

WHEREAS NAME (EdId: XXXX) maintains an Educator Certificate in -----.

WHEREAS NAME (EdId: XXXX)

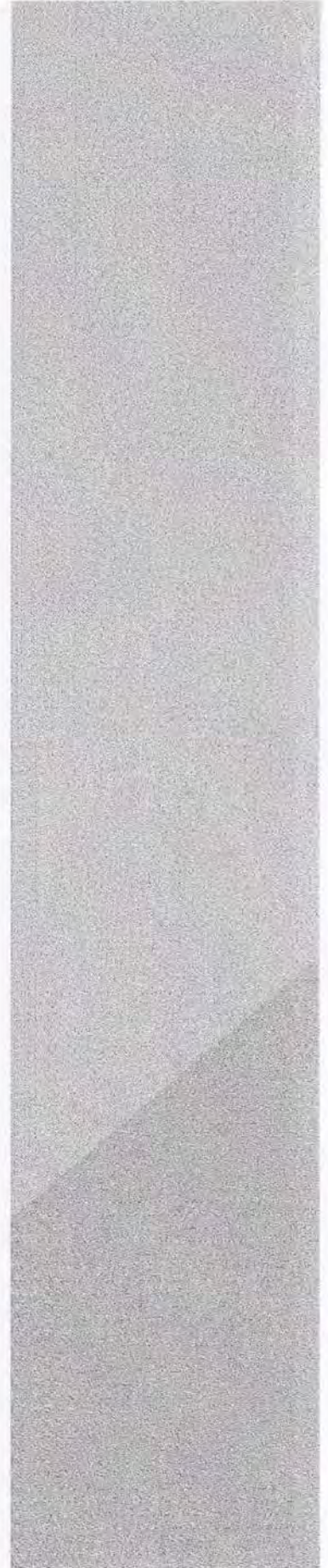
NOW THEREFORE, NAME (EdId: XXXX) agrees to voluntarily surrender his Educator Credential in -----, which will result in a suspension of his educator credential pursuant to the following conditions:

1. NAME shall voluntarily surrender his educator credential. This voluntary surrender will result in the SUSPENSION of his New Hampshire Educator Credential (EdId: XXXX). This suspension shall become effective on XXXX, immediately upon all required parties signing this agreement. The terms of this suspension are as follows:

OTHER ISSUES TO BE AWARE OF—ED 511.04

If arrested for RSA 189:13-a, V, DOE can do an immediate suspension of credential

- Credential holder and school district will be notified
- Credential holder is entitled to hearing within 10 days.



NEED TO REPORT?

Richard Farrell, Investigator

271-8372 (office)

231-0521 (cell)

Diana Fenton, Esq. Chief of the Governance Unit

271-3189 (office)

325-2198 (cell)



New Hampshire

Department of Education